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September 1, 2010

VIA ECF  
Honorable Roslynn R. Mauskopf  
United States District Court  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, New York 11201

Re: *Terry v. Incorporated Village of Patchogue, et al.*  
Docket No.: CV-05-3398 (RRM)(ARL)  
CV-09-2233 (RRM)(ARL)  
File No.: 080062; 090048

Dear Judge Mauskopf:

This firm represents the defendants in the above-referenced case. I write in response to Mr. Vetri's letter to Your Honor, dated August 20, 2010.

The defendants disagree with plaintiff's assertion that the consolidation of his two pending cases would result in a financial hardship. If plaintiff's claims were consolidated, it would avoid the need for overlapping discovery in two separate lawsuits, which would decrease costs for all parties. Moreover, if plaintiff filed an amended complaint which concisely asserted the claims in both his 2005 and 2009 action, as Your Honor suggested, it would be easier to ascertain the nature of his claims, which would thus lead to a more streamlined discovery process should the defendants' motion to dismiss be denied. As Your Honor may recall, even plaintiff had difficulty articulating his claims at the last status conference. Consolidating these actions with more succinct pleadings will clarify and simply the issues in this litigation, which will in turn make this litigation less costly to all parties, and to the Court.

Additionally, it seems obvious to note that should these cases be consolidated, the parties will not be required to make separate court appearances for each litigation. Moreover, the parties will not need to conduct separate discovery and depositions. Thus, plaintiff's claim that consolidation will present a financial burden to him is without merit—all parties are financially burdened by plaintiff's pursuit of two separate lawsuits before this Court.

Hon. Roslynn R. Mauskopf  
September 1, 2010  
Page 2 of 2

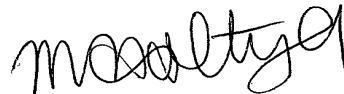
I am confused by plaintiff's assertion that he will lose "substantial rights and prerogatives" should he continue this litigation with counsel. Certainly, parties who are pro-se are afforded no greater rights than parties who are represented by counsel. Parties routinely conduct discovery and cross-examine witnesses through their counsel, yet plaintiff claims that he would be deprived of these rights should his two lawsuits be consolidated. Defendants object to the concept of plaintiff acting as "co-counsel" to Mr. Vetri, as plaintiff is not an admitted attorney.

With regard to the discovery schedule in the 2009 case, I note that plaintiff has not yet responded to any of defendants' discovery demands, and defendants plan to make the appropriate application regarding this failure to Magistrate Judge Lindsay. Defendants, on the other hand, have produced nearly 800 pages of documents in response to plaintiff's discovery demands. While we understand that some extension of the deadline for completion of discovery may be necessary if the two cases are to be consolidated, we plan to oppose any effort made by plaintiff to conduct a "fishing expedition" that would prolong discovery longer than necessary. Magistrate Judge Lindsay has already advised plaintiff that he may not "seek discovery unrelated to the claims and defenses of this lawsuit." See Mag. J. Lindsay's Order dated 8/26/10.

In light of the foregoing, defendants respectfully request that plaintiff's two pending lawsuits against them be consolidated, and that an Order be issued compelling plaintiff to re-plead the allegations of his 2005 and 2009 complaints in a manner compliant with the F.R.C.P. 12(e).

Respectfully submitted,

SOKOLOFF STERN LLP

A handwritten signature in black ink, appearing to read "Melissa L. Holtzer", with a stylized flourish at the end.

MELISSA L. HOLTZER

cc:

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